IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 10187 of 2004

Neeraj Mittal, .. Petitioner
Vs
Union of India & Ors. .. Respondents

Mr Rahul G Walia, for the petitioner.
Mr N.V.Masurkar, for R.Nos 1 and 2.
Mr K.K.V.Kurup and Mrs Aruna Srivastav, for R.No.3.

CORAM : V.G.PALSHIKAR & D.B.BHOSALE,JJ.
DATE : 26.9.2005

PC:

1. Heard the learned counsel for the parties.

2. By this petition, the petitioner has challenged the order passed by the Central Administrative Tribunal on 25.11.2004. The original application before the Central Administrative Tribunal was filed by the petitioner complaining grant of seniority to respondent no.3 in the cadre of Motormen. The challenge was that though both of them were recruited at the same time, the requirement was of passing examination and respondent no.3 having passed the examination at a stage later than that of the petitioner, seniority could not be given to respondent no.3 over the petitioner. This contention is negatived by the Tribunal on proper appreciation of the relevant Rules.

3. Reliance is placed on para 303 of the Rules which

provides for grant of seniority to candidates recruited through the Railway Recruitment Board or by any other recruiting authority. It stipulates that "candidates, who are sent for initial training to training schools, will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts". The contention is that respondent no.3 having passed the examination a month later than the petitioner, he could not be awarded the seniority. This very rule further provides that "those, who join the subsequent courses for any reason whatsoever and **those who pass the** e**xamination in subsequent chances**, will rank junior to those who had passed the examination in earlier courses." The Tribunal has observed in its order very specifically that there is nothing on record to show that respondent no.3 failed or appeared in second chance. That being the position, the later part of para 303 which provides for grant of seniority to persons who have passed the examination earlier, does not apply. In our opinion, there is no error committed by the Tribunal. No interference is called for. The writ petition is dismissed.

(D.B.BHOSALE, J.) **(V.G.PALSHIKAR, J.)**